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COMMISSION ON WATER RESOURCE MANAGEMENT
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COMMISSION ON WATER RESOURCE MANAGEMENT

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Honolulu, Hawaii

Request for Authorization to Initiate Rule-Making Proceedings to Amend
Hawaii Administrative Rules §13-168-12(a), §13-168-32(a),
§13-169-51(c), and §13-171-12(c)
To Replace the \$25 Permit Application Filing Fees with
Fee Schedules to be Adopted by the Commission

SUMMARY OF REQUEST

The Staff requests the Commission on Water Resource Management ("Commission") authorize the initiation of rule-making proceedings to amend the Commission's Hawaii Administrative Rules ("HAR"), including HAR §13-168-12(a), §13-168-32(a), §13-169-51(c), and §13-171-12(c), to replace fixed \$25 permit filing fees for every application with new rules that will allow the Commission to adopt fee schedules for different applications.

The fee schedules will be adopted by the Commission at a regularly noticed meeting and subject to public comment. The schedules may be amended from time to time by the Commission in similar manner.

BACKGROUND

The Commission has the authority to charge permit application fees. Haw. Rev. Stat. §174C-6:

The commission shall promulgate a schedule of application and permit fees. The fees shall be used to defray the administrative costs of the permit systems established under this chapter. A public agency shall not be subject to the payment of any fees.

The following Hawaii Administrative Rules (1988) establish a fixed \$25 filing fee for the various permit applications processed by the Commission irrespective of the work involved:

Hawaii Administrative Rule	Permit Application
§13-168-12(a)	Well construction and pump installation permits
§13-168-32(a)	Stream diversion permits
§13-169-51(c)	Stream channel alteration permits
§13-171-12(c)	Water use permits

DISCUSSION

The Staff estimates the administrative cost to process CWRM permit applications ranges from Three Hundred to Thousands of dollars depending upon the nature and complexity of the application. The \$25 fee the Commission collects now for every permit is nominal and grossly insufficient to cover even the initial clerical expenses, let alone the professional time, regulatory services, and administrative duties.

While filing fees are not intended to and can never recover the actual costs to the Commission, an increase from the current flat \$25 fee (set by rule in 1988) will better reflect some contribution by the applicant who benefits from the application being processed.

The Staff will analyze the real costs and propose to the Commission (at a later date) a reasonable and equitable filing fee structure. Right now, the only goal is to change the administrative rule from a single fixed fee to fee schedule that may later be adopted by the Commission. The analysis will include a discussion about the costs of travel, field investigations; public notices; and conducting public hearings, contested case hearings and other proceedings before the Commission.

The proposed new language for each of the administrative rules to be amended is as follows:

Hawaii Administrative Rule	Current Language	Proposed New Language ¹
§13-168-12(a)	<i>...An application for a well construction or pump installation permit shall be accompanied by a non-refundable filing fee of \$25.00, excepting government agencies, and shall be required for all areas of the state, including water management areas...</i>	<i>...An application for a well construction or pump installation permit shall be accompanied by a non-refundable filing fee <u>based on a fee schedule to be adopted by the Commission [of \$25.00]</u>, excepting government agencies, and shall be required for all areas of the state, including water management areas...</i>
§13-168-32(a)	<i>...An application for a stream diversion permit shall be accompanied by a non-refundable filing fee of \$25.00, excepting government agencies, and shall be required for all areas of the state including water management areas...</i>	<i>...An application for a stream diversion permit shall be accompanied by a non-refundable filing fee <u>based on a fee schedule to be adopted by the Commission [of \$25.00]</u>, excepting government agencies, and shall be required for all areas of the state including water management areas...</i>
§13-169-51(c)	<i>(c) Each application for a permit to undertake a stream channel alteration shall be accompanied by a non-refundable filing fee of \$25.00; provided that no fee shall be required of government agencies.</i>	<i>(c) Each application for a permit to undertake a stream channel alteration shall be accompanied by a non-refundable filing fee <u>based on a fee schedule to be adopted by the Commission [of \$25.00]</u>; provided that no fee shall be required of government agencies...</i>
§13-171-12(c)	<i>(c) Each application for a permit to use water shall be accompanied by a non refundable filing fee of \$25.00 provided that governmental agencies shall not be subject to the payment of any fees.</i>	<i>(c) Each application for a permit to use water shall be accompanied by a non refundable filing fee <u>based on a fee schedule to be adopted by the Commission [of \$25.00]</u> provided that governmental agencies shall not be subject to the payment of any fees.</i>

¹ New language is underlined; language proposed for deletion is bracketed.

Staff recommends the Commission approve steps to amend its administrative rules to adopt fair and equitable fee schedules that contribute more toward the real costs of processing permits.

Adopting fee schedules (which the Commission may change from time to time) will provide more flexibility and quicker, more appropriate responses to changing circumstances.

ENVIRONMENTAL REVIEW (Haw. Rev. Stat. Chapter 343)

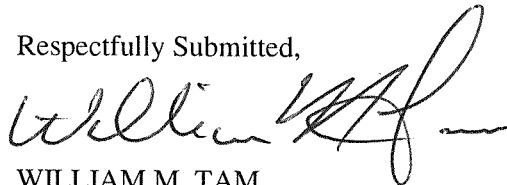
An amendment to an administrative rule is not considered an agency action for purposes of Hawaii Revised Statutes, Chapter 343. No environmental review is required.

RECOMMENDATIONS

Staff recommends that the Commission

1. Authorize the initiation of rule-making proceedings to amend its Hawaii Administrative Rules, including but not limited to HAR§13-168-12(a), §13-168-32(a), §13-169-51(c), and §13-171-12(c) to replace the \$25 permit application filing fees with fee schedules to be adopted by the Commission at a noticed meeting (and which may be amended by the Commission from time to time).
2. Request approval from the Governor to conduct public hearing and conduct public hearing on proposed rules.

Respectfully Submitted,



WILLIAM M. TAM
Deputy Director

APPROVED FOR SUBMITTAL:



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Chairperson